



State of New Jersey

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July 30, 2010

Judith A. Enck
Regional Administrator
United States Environmental Protection Agency Region 2
290 Broadway-26th Floor
New York, NY 10007-1866

Re: Greenhouse Gas Tailoring Rule published in the June 3, 2010
Federal Register, 75 Fed. Reg. 31,514
Implementation of the Title V and PSD Requirements in New Jersey

Dear Judith:

Please accept this letter as New Jersey's response to EPA's request for information regarding application of the meaning of "subject to regulation" set forth in the federal Greenhouse Gas (GHG) Tailoring rule (Tailoring Rule). Please be advised that New Jersey will apply the meaning of "subject to regulation" established by the Tailoring Rule, and that for the reasons set forth below, New Jersey presently does not intend to undertake a regulatory or legislative process to implement the Tailoring Rule.

The Title V air permit requirements in New Jersey are implemented through the New Jersey Air Pollution Control Act (26:2C-1 et seq.) and the New Jersey Administrative Code (N.J.A.C. 7:27-22). The New Jersey Air Pollution Control Act (26:2C-1 et seq.) is available at http://www.nj.gov/dep/rules/rules/njsa26_2c.html. The New Jersey Administrative Code N.J.A.C. 7:27-22 is available at <http://www.state.nj.us/dep/aqm/rules.html>. The new Title V requirements of the GHG Tailoring Rule can be implemented in New Jersey using the existing statute and rules.

The New Jersey statute 26:2C-2 contains a definition of "Major facility" which includes the phrase "*a facility that constitutes a 'major source' as that term is defined by the EPA in rules and regulations adopted pursuant to the federal Clean Air Act at 40 CFR 70.2 or any subsequent amendments thereto*". The definition of "major facility" in the New Jersey Administrative Code N.J.A.C. 7:27-22.1 includes a similar phrase. The EPA defines a "major source" as that which

"is defined in section 302 of the Clean Air Act and directly emits or has the potential to emit...any air pollutant subject to regulation." "Subject to regulation" is further defined to exclude GHGs, except as specifically provided. Therefore, New Jersey's definition of a "major facility" includes the EPA meaning of "subject to regulation" codified in 40 CFR 70.2. Therefore, revisions to N.J.S.A. 26:2C-2 and N.J.A.C. 7:27-22 are not required at this time.

New Jersey will implement new PSD requirements for GHG emissions in New Jersey using the federal rules at 40 CFR 52.21 since New Jersey is a PSD delegated state.

In sum, New Jersey will not be undertaking any regulatory or legislative process to implement Title V and PSD air permit requirements for GHG emissions in New Jersey at this time because current statutory and regulatory authority allows New Jersey to implement EPA's meaning of "subject to regulation." In the future, we may add the EPA major facility threshold (100,000 TPY) to our statute and rules as a matter of clarification in the listings of the major facility thresholds for other air contaminants.

If you have any questions regarding this submittal, please feel free to contact Mr. William O'Sullivan, Director, Division of Air Quality at (609) 984-1484.

Sincerely yours,



Bob Martin
Commissioner

c: Nancy Wittenberg, Assistant Commissioner
William O'Sullivan, Director DAQ
John Preczewski, Assistant Director, DAQ
John Renella, DAG
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